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14  
15 UNITED STATES DISTRICT COURT  
16 NORTHERN DISTRICT OF CALIFORNIA  
17 SAN JOSE DIVISION  
18

19 HON HAI PRECISION INDUSTRY CO., LTD.

20 Plaintiff,

21 v.

22 MACROVISION CORPORATION and  
MACROVISION LICENSING & HOLDING  
23 B.V.

24 Defendants.

CASE NO. C-07-cv-06217-PVT

**PLAINTIFF'S ADMINISTRATIVE  
MOTION FOR FILING UNDER  
SEAL;**

**SUPPORTING DECLARATION OF  
ROBERT F. MCCAULEY;**

**[PROPOSED] ORDER**

Date: January 15, 2008  
Time: 10:00 a.m.  
Place: Courtroom 5, 4th Floor  
Judge: Mag. Judge Patricia V. Trumbull

## **INTRODUCTION**

Pursuant to Civil L.R. 79-5, Plaintiff Hon Hai Precision Industry Co., Ltd. ("Hon Hai") brings this administrative motion for leave to file under seal a motion for preliminary injunction, supporting declarations, and exhibits filed in this action. This action was filed only three days ago and, accordingly, no protective order has been entered in this action.

## **SUMMARY OF FACTUAL BACKGROUND**

Hon Hai is the largest contract manufacturer in the world, having approximately 382,000 employees. Hon Hai is a leading original equipment manufacturer ("OEM") of consumer electronics for some of the world's best known brand name companies, including personal computers and other DVD playing products, with annual sales in the United States in the billions of dollars.

Hon Hai's licensor of certain DVD technology, Macrovision, has asserted that Hon Hai is in material breach of its license from Macrovision and has purported to terminate Hon Hai's license. Hon Hai, however, is not in material breach and remains a Macrovision licensee. In contrast, Macrovision has breached the license agreement by, among other things, improperly attempting to terminate and refusing to submit the parties' dispute to alternative dispute resolution as required by the license agreement.

On Friday, December 7, 2007, Hon Hai filed this action requesting preliminary and permanent injunctive relief, including an order compelling Macrovision to cease treating Hon Hai as a non-licensee and to participate in alternative dispute resolution of the parties' dispute (as required by the license). Today, Monday, December 10, 2007, Hon Hai is lodging herewith a motion for preliminary injunction. Hon Hai's motion, supporting declaration, and exhibits contain confidential information of Hon Hai's, including a proprietary, confidential, and trade secret forecast of damages resulting from Macrovision's wrongful actions and a disclosure of Hon Hai's purchases of integrated circuits in 2007. Furthermore, Hon Hai's papers contain information deemed proprietary and a trade secret by the parties, and covered by a confidentiality clause in the parties' license agreement and designated confidential by Macrovision. *See* Declaration of Samuel Fu in Support of Plaintiff Hon Hai's Motion for Preliminary Injunction, Ex. A ¶ 12.1, lodged herewith. Furthermore, Hon Hai is contractually bound to its customers to maintain the parties' dealings and customers' identities as

1 confidential, and some of Hon Hai's customers dealings and identities are identified in its papers.  
 2 Furthermore, if Hon Hai were to publicly file the above-described information, then Hon Hai would  
 3 be subject to claims by Macrovision and Hon Hai's customers and suppliers for breach of contract  
 4 for revealing this confidential information. Accordingly, Hon Hai requests that the Court file said  
 5 information under seal.

6 If for any reason the Court is inclined to deny Hon Hai's motion to file under seal, then Hon  
 7 Hai respectfully requests that the Court defer a decision on this motion to file under seal and review  
 8 the papers *in camera* in deciding Hon Hai's motion for preliminary injunction. That way, the Court  
 9 will have the information necessary to decide Hon Hai's motion without subjecting Hon Hai to  
 10 claims of breach of contract. Pending a decision on the motion for preliminary injunction, the Court  
 11 might further order Hon Hai to publicly file redacted copies of its brief and supporting declaration  
 12 per Civil L.R. 79-5.

### 13 **REQUEST TO FILE PAPERS UNDER SEAL**

#### 14 **1. Request to File Portions of Papers Under Seal**

15 Pursuant to Civil L.R. 7-11 and 79-5(c), Hon Hai requests to partially file under seal the  
 16 following documents:

- 17 • Plaintiff Hon Hai's Notice of Motion and Memorandum of Points and Authorities in
- 18 Support of Motion for Preliminary Injunction
- 19 • Declaration of Samuel Fu in Support of Plaintiff Hon Hai's Motion for Preliminary
- 20 Injunction

21 These documents are being submitted for partial filing under seal because they contain  
 22 information deemed proprietary and a trade secret by the parties and subject to a confidentiality  
 23 clause in the parties' license agreement. As required by Civil L.R. 79-5(c), Hon Hai is lodging  
 24 herewith CONFIDENTIAL, HIGHLIGHTED versions of these documents in which the confidential  
 25 information is highlighted for the Court's review, and REDACTED PUBLIC versions of these  
 26 documents within which the confidential information has been redacted.

1                   **2. Request to File Entire Documents Under Seal**

2                   Pursuant to Civil L.R. 7-11 and 79-5(b), Hon Hai requests that the Court file the following  
3 documents under seal in their entirety:

- 4                   • Exhibits A, B, C, D, E, F, G, H, and J to the Declaration of Samuel Fu in Support of  
5                   Plaintiff Hon Hai's Motion for Preliminary Injunction

6                   These exhibits are confidential and Hon Hai is obligated to maintain their confidentiality  
7 pursuant to its license agreement with Macrovision and its contractual obligations to its customers to  
8 maintain the parties' dealings and customer identities as confidential. If Hon Hai were to publicly  
9 file the above-described information, then Hon Hai would be subject to claims by Macrovision and  
10 Hon Hai's customers and suppliers for breach of contract for revealing this confidential information.  
11 Accordingly, Hon Hai requests that the Court file said information under seal.



**[PROPOSED] ORDER**

For good cause shown, Plaintiff Hon Hai's motion to file under seal is granted. The Clerk is ordered to file under seal:

1. The HIGHLIGHTED version of Plaintiff Hon Hai's Notice of Motion and Memorandum of Points and Authorities in Support of Motion for Preliminary Injunction; and
2. The HIGHLIGHTED version of the Declaration of Samuel Fu in Support of Plaintiff Hon Hai's Motion for Preliminary Injunction, and Exhibits A, B, C, D, E, F, G, H, and J thereto.

[Alternative Proposed Order: The Court will defer a decision on this motion to file under seal and review the papers *in camera* in deciding Hon Hai's motion for preliminary injunction.]

IT IS SO ORDERED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
United States District Judge